

## § 723.21

whether the state regulation minimizes the risk and accomplishes the overall objectives of NCUA's member business loan rule in this part. Specifically, the Board will focus its review on:

- (1) The definition of a member business loan;
- (2) Loan to one borrower limits;
- (3) Written loan policies;
- (4) Collateral and security requirements;
- (5) Construction and development lending; and
- (6) Loans to senior management.

(b) To receive NCUA's approval of a state's members business loan rule, the state supervisory authority must submit its rule to the NCUA regional office. After reviewing the rule, the region will forward the request to the NCUA Board for a final determination.

### § 723.21 Definitions.

For purposes of this part, the following definitions apply:

*Associated member* is any member with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

*Construction or development loan* is a financing arrangement for acquiring property or rights to property, including land or structures, with the intent to convert it to income-producing property such as residential housing for rental or sale; commercial use; industrial use; or similar uses.

*Immediate family member* is a spouse or other family member living in the same household.

*Loan-to-value ratio* is the aggregate amount of all sums borrowed including outstanding balances plus any unfunded commitment or line of credit from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.

*Net worth* is retained earnings as defined under Generally Accepted Accounting Principles. Retained earnings normally includes undivided earnings, regular reserves and any other appropriations designated by management or regulatory authorities.

## 12 CFR Ch. VII (1–1–03 Edition)

### PART 724—TRUSTEES AND CUSTODIANS OF PENSION PLANS

Sec.

724.1 Federal credit unions acting as trustees and custodians of pension and retirement plans.

724.2 Self-directed retirement plans.

724.3 Appointment of successor trustee or custodian.

AUTHORITY: 12 U.S.C. 1757, 1765, 1766 and 1787.

SOURCE: 55 FR 30211, July 25, 1990, unless otherwise noted.

#### § 724.1 Federal credit unions acting as trustees and custodians of pension and retirement plans.

A federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension or profit-sharing plan which qualifies or qualified for specific tax treatment under sections 401(d), 408, 408A and 530 of the Internal Revenue Code (26 U.S.C. 401(d), 408, 408A and 530), for its members or groups of members, provided the funds of such plans are invested in share accounts or share certificate accounts of the federal credit union. Federal credit unions located in a territory, including the trust territories, or a possession of the United States, or the Commonwealth of Puerto Rico, are also authorized to act as trustee or custodian for such plans, if authorized under sections 401(d), 408, 408A and 530 of the Internal Revenue Code as applied to the territory or possession or under similar provisions of territorial law. All funds held in a trustee or custodial capacity must be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such trust or custodial accounts. The federal credit union shall maintain individual records for each participant which show in detail all transactions relating

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to the funds of each participant or beneficiary.

[55 FR 30211, July 25, 1990, as amended at 63 FR 14026, Mar. 24, 1998; 65 FR 10934, Mar. 1, 2000]

### § 724.2 Self-directed retirement plans.

A Federal credit union may act as trustee or custodian of individual retirement plans of its members established pursuant to section 401(d) or 408 of the Internal Revenue Code, and may facilitate transfers of plan funds to assets other than share and share certificates of the credit union, provided the conditions of § 724.1 and the following additional conditions are met:

(a) All contributions of funds are initially made to a share or share certificate account in the Federal credit union;

(b) Any subsequent transfer of funds to other assets is solely at the direction of the member and the Federal credit union exercises no investment discretion and provides no investment advice with respect to plan assets (i.e., the credit union performs only custodial duties); and

(c) The member is clearly notified of the fact that National Credit Union Share Insurance Fund coverage is limited to funds held in share or share certificate accounts of NCUSIF-insured credit unions.

### § 724.3 Appointment of successor trustee or custodian.

Any plan operated pursuant to this part shall provide for the appointment of a successor trustee or custodian by a person, committee, corporation or organization other than the Federal credit union or any person acting in his capacity as a director, employee or agent of the Federal credit union upon notice from the Federal credit union or the Board that the Federal credit union is unwilling or unable to continue to act as trustee or custodian.

## PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

Sec.

725.1 Scope.

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725.4 Agent membership.

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725.18 Creditworthiness.

725.19 Collateral requirements.

725.20 Repayment, security and credit reporting agreements; other terms and conditions.

725.21 Modification of agreements.

725.22 Advances to insurance organizations.

725.23 Other advances.

AUTHORITY: Secs. 301–307 Federal Credit Union Act, 92 Stat. 3719–3722 (12 U.S.C. 1795–1795f).

SOURCE: 44 FR 49437, Aug. 23, 1979, unless otherwise noted.

### § 725.1 Scope.

This part contains the regulations implementing the National Credit Union Central Liquidity Facility Act, subchapter III of the Federal Credit Union Act. The National Credit Union Administration Central Liquidity Facility is a mixed-ownership Government corporation within the National Credit Union Administration. It is managed by the National Credit Union Administration Board and is owned by its member credit unions. The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encourage savings, support consumer and mortgage lending and provide basic financial resources to all segments of the economy.

### § 725.2 Definitions.

As used in this part:

(a) *Agent* means an Agent member of the Facility.

(b) *Agent group* means an Agent member of the Facility consisting of a group of central credit unions, one of which is designated as the group's *Agent group representative* and authorized to transact business with the Facility on behalf of the group or any member of the group.

(c) *Agent loan* means an advance of funds by an Agent to a member natural person credit union to meet liquidity needs which have been the basis for a Facility advance.